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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,384	08/26/2003	Roger Johannes Maria Peeters	0142-0422P	2049

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EXAMINER
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MORRISON, THOMAS A

ART UNIT	PAPER NUMBER
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3653

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/23/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/647,384</p>	<p>Applicant(s)</p> <p align="center">PEETERS ET AL.</p>	
	<p>Examiner</p> <p align="center">Thomas A. Morrison</p>	<p>Art Unit</p> <p align="center">3653</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5,7,8,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,5,7,8,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, this claim depends from claim 11. How can  $N = 1$  in claim 11, and also meet the limitations of claim 12? More specifically, how can you have  $N = 1$  sheet deposition location in claim 11, and also have two sheet deposition locations (i.e., one of said  $N$  sheet deposition locations and an adjacent sheet deposition location) in claim 12?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 3, 5, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,721,435 (Zanders).

Regarding independent claim 11, Figs. 1-3 show a sheet deposition system for selectively depositing sheets in  $N$  sheet deposition locations on at least one of a plurality of supports (including 13), with  $N$  being an integer  $> \text{ or } = 1$ , which comprises:

N+1 (i.e., 2) guide members (11 and 9) for guiding the supports (including 13), the guide members (11 and 9) being vertically arranged such that each of the sheet deposition locations (1 deposition location below 18) has an associated lower guide member (11) and an associated higher guide member (9);

a plurality of points of suspension (notches shown in Fig. 3) on each of the guide members (11 and 9) for suspending the supports (13) thereon (i.e., the notches on guide members 11 and 9 are points of suspension for suspending the supports (13) via elements 14 thereon) such that each support (13) can be detached from and repositioned on the guide members (11 and 9) regardless of its position on the guide members (11 and 9); and

drive means (column 3, lines 64-75) for driving the guide members (11 and 9) and enabling the passing of at least one support (including 13) from one of the guide members (9) to an adjacent one of the guide members (11).

With regard to the recitation, "a plurality of points of suspension on each of said guide members for suspending the supports thereon such that **each support can be detached from and repositioned on** the guide members regardless of its position on the guide members" (emphasis added), it is the examiner's position that the apparatus disclosed in Zanders is inherently put together during its initial assembly, and inherently can be taken apart, e.g., for maintenance and/or repair. Taking such apparatus apart for maintenance or repair allows the folders (13) (i.e., supports 13) of Zanders to be detached from the guide members (11 and 9). Moreover, during initial assembly of

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such apparatus, and/or during re-assembly after maintenance or repair each folder (13) (i.e., support 13) of Zanders can be **repositioned** on the guide members regardless of its position on the guide members. More specifically, before taking apart such apparatus, each folder (13)(i.e., support 13) is located in a certain position. During re-assembly after maintenance or repair, each folder (13)(i.e., support 13) can be re-assembled in a different position (i.e., repositioned). Thus, all of the limitations of claim 11 are met.

Moreover, in the recitation "a plurality of points of suspension on each of said guide members for suspending the supports thereon **such that each support can be detached from and repositioned on the guide members regardless of its position on the guide members**" (emphasis added), this bolded portion of the recitation need not be given patentable weight in view of MPEP, section 2114. Specifically, MPEP, section 2114 states that, "While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function." See MPEP, section 2114.

Regarding dependent claim 2, Figs. 1-3 show that the guide members (11 and 9) are endless.

Regarding dependent claim 3, Figs. 1-3 show that the number of supports (including 13) is at least 3.

Regarding dependent claim 5, Figs. 1-3 show that each of the guide members (11 and 9) is composed of one or more belts, or one or more chains, or one or more wires.

Regarding dependent claim 7, column 3, lines 65-75 disclose that each of the guide members (11 and 9) has an associated clutch for transmitting drive thereto, the system further comprising control means for selectively activating at least one of the clutches. In particular, each guide is associated with the disclosed clutch and the claim does not preclude a single clutch from being used.

***Claim Rejections - 35 USC § 103***

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,721,435 (Zanders) as applied to claim 7 above, and further in view of U.S. Patent No. 5,046,641 (Gray). The Zanders patent discloses all of the elements of claim 8, except for a tooth clutch, as claimed. In fact, column 3, lines 65-75 of the Zanders patent disclose that a clutch and gears can be used to provide power to the guide members 11 and 9 (i.e., belts 11 and 9). Zanders also indicates that the mechanism that drives the belts (i.e., guide members 11 and 9) can be provided in various ways evident to one skilled in the art.

The Gray patent discloses that it is well known to provide an apparatus with belts operated via gears and a tooth clutch (including 62 and 63). See, e.g., Fig. 3 of Gray. Gray explains that such tooth clutch allows fewer gears to be used. See e.g., column 9, lines 24-27. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the apparatus of the Zanders patent with a tooth clutch

in order to limit the number of gears needed to operate Zanders apparatus, as taught by Gray.

***Response to Arguments***

4. Applicant's arguments filed 12/28/2006 have been fully considered but they are not persuasive. Applicant argues

As the Examiner will note, claim 12 has been amended in an effort to eliminate the formal rejections raised by the Examiner. In connection with the comments raised by the Examiner at the top of page 3 of the Office Action letter, since claim 11 defines the N sheet deposition locations as being an integer number which is either equal to or greater than 1, the fact that claim 12 refers to 2 sheet deposition locations does not make claim 12 inconsistent with claim 11. However, the Applicants are open to any claim language which will help clarify this problem for the Examiner.

In response, it is noted that **N must be at least N = 2** to meet the limitations of claim 12, and this requirement **conflicts with N > or = 1**, as set forth in claim 11. As such, claim 12 is indefinite. More specifically, there is no way for N to be N > or = 1 (i.e., no way to have N = 1), as can occur in claim 11, and also meet the limitations of claim 12. Perhaps, either claim 11 could be amended to recite N > or = 2, or claim 12 could somehow be amended to be definite with the condition N = 1. As written, claim 12 is indefinite, because it makes no sense when N = 1.

Next, applicant argues

As the Examiner will note, claim 11 has been amended to recite that each support can be detached from and repositioned on the guide members regardless of its position on the guide members. By adding the language "and repositioned on" to claim 11, the Applicants have attempted to solve the problem raised by the Examiner since if the support can be detached from and repositioned on the guide members, this would eliminate the possibility that the supports 13 can be pulled off or broken in order to detach such supports from the guides, as suggested by the Examiner on

page 4 of the Examiner's Office Action letter.

In addition, there is no suggestion in the Zanders patent that the supports 13 can be detached from the guide members 9 and 11 by pulling off or breaking the rods 14 on which the supports 13 rest to release such supports 13 from the Zanders device. Thus, in applying the teachings of the Zanders device to the present invention, the Examiner must reconstruct the teachings of this reference in view of the Applicants' own disclosure.

Because of the inherent deficiencies in the Zanders patent, the further reliance upon the Gray patent in connection with the rejection of claim 8 is untenable since claim 8, which is indirectly dependent from claim 11 is even more distinguishable from the Zanders and Gray patents for the reasons set forth hereinabove.

To reject the claims of the present application, the Examiner must make certain conclusions with respect to the Zanders patent which are not suggested in the Zanders patent but can only be made in the light of the Applicants' disclosure. Thus, the Examiner, using hindsight, is reconstructing the teachings of the references in view of the Applicants' own disclosure.

With regard to the recitation, "a plurality of points of suspension on each of said guide members for suspending the supports thereon such that **each support can be detached from and repositioned on** the guide members regardless of its position on the guide members" (emphasis added), it is the examiner's position that the apparatus disclosed in Zanders is inherently put together during its initial assembly, and inherently can be taken apart, e.g., for maintenance and/or repair. Taking such apparatus apart for maintenance or repair allows the folders (13) (i.e., supports 13) of Zanders to be detached from the guide members (11 and 9). Moreover, during initial assembly of such apparatus, and/or during re-assembly after maintenance or repair each folder (13) (i.e., support 13) of Zanders can be **repositioned** on the guide members regardless of its position on the guide members. More specifically, before taking apart such apparatus, each folder (13)(i.e., support 13) is located in a certain position. During re-



assembly after maintenance or repair, each folder (13)(i.e., support 13) can be re-assembled in a different position (i.e., repositioned). Thus, all of the limitations of claim 11 are met. The examiner has not used any hindsight reasoning. Rather, it is the examiner's position that the Zanders apparatus inherently is able to be put together and taken apart, e.g., for maintenance or repair.

Moreover, in the recitation "a plurality of points of suspension on each of said guide members for suspending the supports thereon **such that each support can be detached from and repositioned on the guide members regardless of its position on the guide members**" (emphasis added), this bolded portion of the recitation need not be given patentable weight in view of MPEP, section 2114. Specifically, MPEP, section 2114 states that, "While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function." See MPEP, section 2114.

#### ***Allowable Subject Matter***

5. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 12 is too unclear to make a determination as to whether this claim contains allowable subject matter.

#### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Morrison whose telephone number is (571) 272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

03/14/2007

  
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